



DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2014-HA-0154]

Privacy Act of 1974; System of Records

AGENCY: Defense Health Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Defense Health Agency proposes to alter an existing system of records, EDTMA 03, entitled "Legal Opinion Files" in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system uses records to address and resolve legal issues and for research, precedent, historical, and record purposes.

DATES: Comments will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- * Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- * Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Linda S. Thomas, Chief, Defense Health Agency Privacy and Civil Liberties Office, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, or by phone at (703) 681-7500.

SUPPLEMENTARY INFORMATION: The Defense Health Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office website at <http://dpclo.defense.gov/>.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 12, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals,"

dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 14, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of
Defense.

EDTMA 03

Legal Opinion Files (November 18, 2013, 78 FR 69076)

Changes

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System location:

Delete entry and replace with "Office of the General Counsel,
Defense Health Agency, 16401 East Centretch Parkway, Aurora, CO
80011-9066.

Office of the General Counsel, Defense Health Agency
Headquarters, 7700 Arlington Boulevard, Suite 5101, Falls
Church, VA 22042-5101."

Categories of individuals covered by the system:

Delete entry and replace with "Individuals who have contacted or corresponded with Defense Health Agency regarding any matter requiring legal clarification or resolution."

Categories of records in the system:

Delete entry and replace with "Inquiries received from individuals, attorneys, fiscal administrators, hospital contractors, other government agencies, Health Care Advice Nurse records, and Congressional offices. Files contain legal opinions, ethics opinions, correspondence, memoranda for the record, and similar documents. Medical/dental treatment records, authorizations and pre-authorizations, care and claims inquiry documents, medical/dental history files, the name, Social Security Number (SSN) and/or DoD Identification Number (DoD ID Number) of the sponsor and/or beneficiary; and beneficiary's relationship to sponsor may be included in these records, as appropriate, to document TRICARE legal determinations."

Authority for maintenance of the system:

Delete entry and replace with "10 U.S.C. Chapter 55, Medical and Dental Care; 38 U.S.C. Chapter 17, Hospital, Nursing Home, Domiciliary, and Medical Care; 32 CFR Part 199, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); and

E.O. 9397 (SSN), as amended."

Purpose(s) :

Delete entry and replace with "Defense Health Agency uses these records to address and resolve legal issues and for research, precedent, historical, and record purposes."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Departments of Health and Human Services and Veterans Affairs consistent with their statutory administrative responsibilities under TRICARE and the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) pursuant to 10 U.S.C. Chapter 55 and 38 U.S.C. Chapter 17.

Referral to Federal, state, local, or foreign governmental agencies, and to private business entities, including

individual providers of care (participating and non-participating), on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation related to the operation of TRICARE.

Disclosure to the Department of Justice and the United States Attorneys in situations where the matter directly or indirectly involves the TRICARE program.

Disclosure to third-party contacts in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning his or her entitlement, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal.

The DoD Blanket Routine Uses may apply to this system of records.

NOTE 1: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18-R) or any successor DoD

issuances implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 CFR Parts 160 and 164, Health and Human Services, General Administrative Requirements and Security & Privacy, respectively, applies to most such health information. DoD 6025.18-R or a successor issuance may place additional procedural requirements on uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended, or mentioned in this system of records notice.

NOTE 2: Except as provided under 42 U.S.C. 290dd-2, records of identity, diagnosis, prognosis or treatment information of any patient maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by a department or agency of the United States will be treated as confidential and disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd-2."

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Storage:

Delete entry and replace with "Paper records and/or electronic storage media."

Retrievability:

Delete entry and replace with "Information is retrieved by subject matter with cross-reference by the individual's name, SSN, and/or DoD ID Number."

Safeguards:

Delete entry and replace with "Electronic media, data and/or electronic records are maintained in a controlled area. Records are maintained in a secure, limited access, or monitored area. The computer system is accessible only to authorized personnel. Entry into these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, passwords which are changed periodically, and administrative procedures.

The system provides two-factor authentication through user IDs/passwords. Access to personal information is restricted to those who require the data in the performance of their official duties. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

All of the records must be properly secured for the duration of their life cycle. The safeguards in place for the paper records

include placing the documents in locked file cabinets and storage rooms with limited access and electronic security measures. In addition, some of the records are housed in secure facilities monitored by security guards and video surveillance."

Retention and disposal:

Delete entry and replace with "Permanent. Retire to Denver Federal Records Center (FRC) when superseded or obsolete."

System manager(s) and address:

Delete entry and replace with "Paralegal Specialist, Office of General Counsel, Defense Health Agency, 16401 East Centretech Parkway, Aurora, CO 80011-9066."

Notification procedure:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA, 22042-5101.

Requests should contain the full name and signature of the sponsor or beneficiary.

If requesting information about a minor or legally incompetent person, the request must be made by the custodial parent, legal guardian, or party acting in loco parentis of such individual. Written proof of that status may be required before the existence of any information will be confirmed."

Record access procedures:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, FOIA Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA, 22042-5101.

Written requests for information should include the full name and signature of the sponsor or beneficiary.

If requesting records about a minor or legally incompetent person, the request must be made by the custodial parent, legal guardian, or party acting in loco parentis of such individual.

Written proof of that status may be required before any records will be provided."

Contesting record procedures:

Delete entry and replace with "The Office of the Secretary of Defense (OSD) rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81, 32 CFR Part 311, or may be obtained from the system manager."

Record source categories:

Delete entry and replace with "Individuals (TRICARE and CHAMPVA beneficiaries, sponsors, or others), attorneys, fiscal administrators, hospital contractors, managed care support contractors, providers of care, medical records, other government agencies (Federal, state, local, and foreign), and Congressional offices."

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Billing Code: 5001-06